

REMARKS

In the Office Action, the Examiner rejected claims 1-24. In this Amendment and Response, Applicants amended claims 1, 10, 18, 19, and 21-23 to clarify certain features of the instant claims. These amendments do not add any new matter. In view of the foregoing amendments and the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims 1-24.

Claim Objections

In the Office Action, the Examiner objected to claims 10 and 18 because of improper antecedent basis. As suggested by the Examiner, Applicants amended both claims to correct the informalities. Applicants assert that these formal amendments do not broaden or lessen the scope of the claims. Accordingly, Applicants request the Examiner withdraw these claim objections.

Rejections under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1, 3, 4, 6-8, 10, and 14-17 under 35 U.S.C. § 102(a) as being anticipated by Wambach et al. (U.S. Patent No. 6,330,648). Additionally, the Examiner rejected claims 1, 10, 18, 19, and 22-24 under 35 U.S.C. § 102(e) as being anticipated by MacLeod (U.S. Patent No. 6,598,135). Applicants respectfully assert that the pending claims, as amended, are patentable over the cited references in view of the following legal precedent and remarks.

Legal Precedent

Anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Accordingly, the Applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter. The prior art reference also must show the *identical* invention “*in as complete detail as contained in the ... claim*” to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989).

Claim Features Missing in Wambach

First, as discussed above, the Examiner rejected independent claims 1 and 10 under 35 U.S.C. § 102(a) as being anticipated by Wambach. However, Applicants respectfully assert that the Wambach reference does not disclose each and every element presently claimed.

The present technique provides for identifying the write protect status of removable storage media, for example a computer diskette, prior to normal interaction with the media. See Application, Abstract. Accordingly, independent claim 1 recites a method of identifying a write protect status of a *removable and rewriteable computer diskette* comprising the act of

interacting with the computer diskette. Similarly, independent claim 10 recites *removable rewriteable media*.

Applicants remind the Examiner that words of a claim must be given their plain meaning unless the Applicant has provided a clearer definition in the specification. *See In re Zletz*, 893 F.2d 319, 321, 12 U.S.P.Q.2d 1320, 1322 (Fed. Cir. 1989). The plain meaning refers to an interpretation by those of ordinary skill in the art. *See In re Sneed*, 710 F.2d 1544, 218 U.S.P.Q. 385 (Fed. Cir. 1983). One of ordinary skill in the art would clearly understand a computer diskette as media that is removable and rewriteable, as is explained in the present specification and in the claims themselves as removable and rewriteable media. *See Application*, pages 5-6.

In contrast, the Wambach reference merely discloses “the protection of computer *mass memories* such as *magnetic hard disk drives, optical disk drives and the like*.” (Emphasis added); col. 1, lines 7-10. Mass memories, as disclosed by Wambach, are clearly not the equivalent of a computer diskette or removable rewriteable media as understood in the art. Thus, Wambach clearly fails to disclose each and every feature presently claimed. Accordingly, Applicants believe independent claims 1 and 10 are patentable over the cited reference and request the Examiner withdraw the rejection of claims 1 and 10. Similarly, Applicants believe claims 2-9 and 11-17 to be patentable by way of their respective dependencies from claims 1 and 10 and for unique features recited in each dependent claim.

Claim Features Missing in MacLeod

Second, as discussed above, the Examiner rejected independent claims 1, 10, and 18 under section 102 as being anticipated by MacLeod. However, Applicants respectfully assert that each and every feature claimed is not disclosed by the MacLeod reference.

As discussed previously, the present technique provides for identifying the write protect status of removable storage media, for example a computer diskette, prior to normal interaction with the media. *See* Application, Abstract. Accordingly, independent claims 1, 10, and 18 recite a computer diskette or media that is *removable and rewriteable*. Further, claim 1 recites identifying the write protect status of a removable and rewriteable *diskette*; claim 10 recites *seeking to a non-storage location* beyond a storage area of a *removable media*; and, claim 18 recites reading data from *removable rewriteable media* and attempting to *write the data back* to the media.

Again, Applicants remind the Examiner that words of a claim must be given their plain meaning unless the Applicant has provided a clearer definition in the specification. *See In re Zletz*, 893 F.2d 319, 321, 12 U.S.P.Q.2d 1320, 1322 (Fed. Cir. 1989). The plain meaning refers to an interpretation by those of ordinary skill in the art. *See In re Sneed*, 710 F.2d 1544, 218 U.S.P.Q. 385 (Fed. Cir. 1983). One of ordinary skill in the art would understand a computer diskette as a removable and rewriteable media, as explained in the present specification. *See* Application, pages 5-6.

First, MacLeod fails to disclose a computer diskette or media that is *removable and rewriteable*, as set forth by independent claims 1 and 18. Instead, MacLeod teaches a DVD-WORM media, which is defined as “*Write Once Read Many*.” Col. 2, lines 28-30 (emphasis added). MacLeod further discloses not allowing “any rewriting of sectors under any condition.” Col. 3, lines 1-2. Accordingly, the media of MacLeod is *not rewriteable*, as recited by claims 1 and 18.

Second, MacLeod does not disclose identifying the write protection status of a computer diskette based on the *failure code*, as recited by claim 1. Rather, MacLeod discloses a WRITE-PROTECT FLAG (WPF) and a SECTOR WRITTEN FLAG (SWF), which are *both checked prior to any write operation*. See col. 5, lines 9-33. However, these WPF and SWF flags do not use any sort of failure code to identify the write protection status. See *id.* Thus, MacLeod clearly fails to disclose each and every feature presently claimed. For these reasons, Applicants believe independent claim 1 is patentable over the cited reference. Similarly, Applicants believe claims 2-9 to be patentable by way of their dependency from claim 1 and for unique features recited in each dependent claim.

Third, the MacLeod reference fails to disclose seeking *beyond* a storage area to a *non-storage* area, as recited in claim 10. Instead, MacLeod discloses interaction with media storage areas or sectors *capable of storing data*. See col. 4, lines 59-60; col. 5, lines 5-33. There is no suggestion of seeking beyond a storage area to a non-storage area. The FLAGS (WPF and SWF) discussed above are both associated with either written or writeable sectors, rather than a non-storage area. See *id.* For these reasons, Applicants believe independent

claim 10 is patentable over the cited reference. Similarly, Applicants believe claims 10-17 to be patentable by way of their dependency from claim 10 and for unique features recited in each dependent claim.

Fourth, MacLeod fails to disclose reading data and then attempting to write the same data back to a removable rewriteable media, as recited in claim 18. In fact, the MacLeod reference specifically discloses an application where “data must be stored and protected in it’s [sic] original form *without the possibility* of intentional or unintentional *altering or overwriting*.” (Emphasis added); col. 2, lines 32-33. MacLeod specifically states that rewriting of sectors under any condition is *not* allowed. See col. 3, lines 1-2. Again, the media disclosed by MacLeod is termed DVD-WORM, an acronym for “*Write Once Read Many*,” which precludes reading data and then writing the same data back to a media. Col. 2, lines 29-30 (emphasis added). Accordingly MacLeod does not teach each and every element of the instant claim. For these reasons, Applicants believe independent claim 18 is patentable over the cited reference. Similarly, Applicants believe claims 18-24 to be patentable by way of their dependency from claim 18 and for unique features recited in each dependent claim.

Accordingly, Applicants request the Examiner withdraw all outstanding rejections under 35 U.S.C. § 102.

Rejections under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 2, 5, 9 and 11-13 under 35 U.S.C. § 103(a) as unpatentable over Wambach et al. and MacLeod. Claims 2, 5, 9 and 11-13

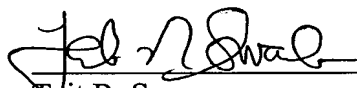
depend from independent claims 1 and 10 respectively. As discussed above, Applicants assert that these references both fail to disclose certain features recited by independent claims 1 and 10. Moreover, the cited references do not obviate the deficiencies of one another. Applicants also stress the lack of a suggestion or motivation in the prior art to combine the references. Claims 2, 5, 9 and 11-13 are believed to be patentable by way of their dependencies on independent claims 1 and 10 and by way of the unique features recited in each dependent claim. For these reasons, Applicants respectfully request the Examiner withdraw the rejections under 35 U.S.C. § 103.

Conclusion

In view of the Amendments and Remarks set forth above, the Applicant respectfully asserts that the pending claims 1-24 are in condition for allowance. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: January 9, 2004



Tait R. Swanson
Reg. No. 48,226
FLETCHER YODER
(281) 970-4545

CORRESPONDENCE ADDRESS:

Intellectual Property Administration
Legal Department, M/S 35
HEWLETT-PACKARD COMPANY
P.O. Box 272400
Fort Collins, CO 80527-2400